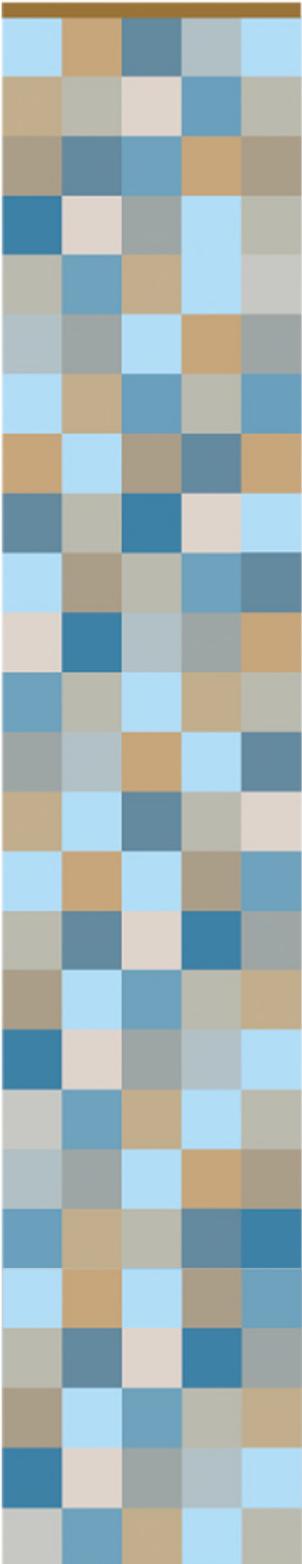


# ALERT

April 2020



## Face Masks & More - The New Normal

By: A. Jonathan Trafimow, Keith J. Frank & Helena A. Nagel

New York Governor Andrew Cuomo has issued another Executive Order that essential businesses and all people appearing in public need to know about. On Sunday, April 12, 2020 Governor Cuomo issued [Executive Order 202.16](#) (“Order”), mandating that businesses that are deemed essential will now have to provide their employees with “face coverings” that must be worn when they are in contact with the public. The Order’s mandate went into effect at 8 p.m. on April 15, 2020 and will remain in place until May 12, 2020.

The Order reads in relevant part:

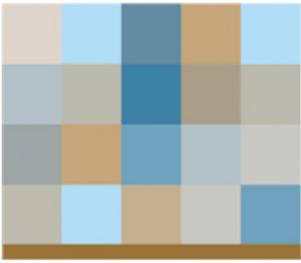
For all essential businesses or entities, any employees who are present in the workplace shall be provided and shall wear face coverings when in direct contact with customers or members of the public. Businesses must provide, at their expense, such face coverings for their employees. This provision may be enforced by local governments or local law enforcement as if it were an order pursuant to section 12 or 12-b of the Public Health Law.

Clearly, the Order does not provide much guidance, other than to require that the face coverings be provided at the employer’s sole expense. The Order is silent as to the type of face covering that must be provided. The Order is also unclear as to whether the “workplace” mentioned in the Order includes off-site locations to which employees may be sent as part of their job duties.

Therefore, it may be beneficial for essential businesses to implement an employment policy relating to this Order, to ensure that all covered employees are aware of their obligation to wear the provided face coverings when in contact with the public. Employers should consult employment counsel to develop this policy.

Notably, this new Order’s mandate does not alleviate essential business owners’ obligation to continue implementing rules that help facilitate social distancing of at least six feet, regardless of whether employees are interacting with the public.

While essential businesses take the necessary steps to comply with this new Order, it is important that all businesses, essential and non-essential, ensure compliance with other applicable requirements, such as the requirements set forth by Occupational Safety and Health Administration (“OSHA”) and other New York Executive Orders.



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During these unprecedented times, it can be difficult for businesses, both essential and non-essential, to stay current with businesses' ever-changing obligations and requirements when laws and requirements under federal, state and local law are so fluid. Moritt Hock & Hamroff's employment attorneys are able to assist businesses with any questions regarding this Executive Order and other applicable laws. Our contact information is set forth below:

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